

Record Management Tips

June 2010

The **Open Meeting Law** was revised as part of the 2009 Ethics Reform Bill, and will centralize responsibility for state-wide enforcement of the law in the office of the Attorney General. The effective date of the revised law is **July 1, 2010**.

The **purpose** of the Open Meeting Law is to eliminate much of the secrecy surrounding the deliberations and decisions on which public policy is based. The Open Meeting Law supports the principle that the democratic process depends on the public having knowledge about the considerations underlying governmental action. The Open Meeting law requires that most meetings of governmental bodies to be held in public. There are some exceptions, which are designed to ensure that public officials are not “unduly hampered” by having every discussion among public officials open to the public. As a result, the Open Meeting law provides for particular circumstances under which a meeting may be held in executive, or closed, session.

There are **major changes** to the Open Meeting Law that are listed below. Some of them you are already aware of and have complied:

- All persons serving on “public bodies” must receive a copy of the Open Meeting Law:

M.G.L. c.30A. s.19(c)

Open Meeting Law Guidelines April 2009. This will be updated by the Attorney General’s office in July 2010.

- **The officer calling the meeting** is responsible for complying with the following posting requirement:

48 hour notice for meetings of Boards and Committees—the Town Clerk must receive your meeting posting, including an agenda (or list of topics the chair reasonably anticipates will be discussed) at least 48 hours prior to the meeting. This must be

available to the public at all hours. **THE 48 HOURS NOTICE CANNOT INCLUDE SATURDAYS, SUNDAYS OR HOLIDAYS.**

For example:

Monday night meetings must be posted before Thursday night.

Tuesday night meetings must be posted before Friday night (if Monday is a holiday, before Thursday night).

Wednesday night meetings must be posted before Monday night.

Thursday night meetings must be posted before Tuesday night.

Friday night meetings must be posted before Wednesday night.

- **REMEMBER:** the notice must include the **date, time, and place** of the meeting and the list of topics that the chair reasonably anticipates will be discussed).
- **E-mails** are included in the definition of “deliberation” which is prohibited outside of open session; but distribution of agendas, scheduling information or reports to be discussed at future meetings is permitted.
- **Attendance by a quorum** at a location is not considered to be a “meeting” if members are not intending to conduct business and no deliberation occurs.

For example:

1. Attendance at a conference, social event, or a meeting of another municipal board is not considered to be a meeting if no intention to conduct business or deliberations occurs.
2. A meeting of a quasi-judicial board solely to make a decision

required in an adjudicatory proceeding is not a “meeting”.

- **Meeting minutes** must contain more detailed information than previously required.

The following must be included in the minutes:

1. Date, place, time and matters discussed.
 2. Summaries of discussions
 3. List of documents used
 4. Decisions made
 5. Actions taken
 6. Record of all votes (yeas, nays and abstentions).
 7. Documents and other exhibits, such as photographs, Recordings, maps and presentations used by the body at The open or executive session shall be part of the official record of the session in addition to the minutes.
- **Executive minutes** must be reviewed by the chair periodically to determine if they should be released, or if purpose for executive session is still ongoing to keep minutes confidential.
 - **Attorney General** will assume broad interpretation and enforcement authority over the Open Meeting Law. The District Attorney is no longer involved.
 - **Persons making complaints** of Open Meeting Law violations must file written complaint with the Public Body first. The Public Body then submits a reply to the complainant and to The Attorney General's Office.

Source: Brian Riley, Esq., Kopelman and Paige, P.C., Linda Thorpe, Monterey